IN THE HIGH COURT OF BOMBAY AT GOA

COMPANY APPEAL NO. 1 OF 2006.

1. La-Joy Hotels Private
Limited, P.O. Porvorim,
Socorro, Bardez, Goa.

2. Lazaro de Souza,
P.O. Porvorim, Socorro,
Bardez, Goa.

3. Smt. Joyce Arora Santha Cruz Pinto
de Souza, P.O. Porvorim,
Socorro, Bardez, Goa. .... Appellants.

Versus

1. Trudy Trinidade,
Allied Bunglow, St. John's Road,
Bandra (West), Mumbai 400050.

2. Anthony Trinidade,
Allied Bunglow,
St. John's Road,
Bandra (West), Mumbai 400050. .... Respondents.

Mr. Nitin Sardessai with Mr. V. Rodrigues, Advocates for the Appellants.

Mr. D.M. Mehta with Ms. R. Kamath, Advocates for the Respondent No.1.

Mr. A.D. Bhobe, Advocate for the Respondent No.2.

CORAM: J. N. PATEL &
P. V. KAKADE, JJ.

DATE: 8th DECEMBER, 2006.

ORAL JUDGMENT: (Per J.N. PATEL, J.)

Heard the learned counsel for the parties.

2. This Company Appeal is filed taking exception to the interlocutory Order passed by the Company Judge on 24th February, 2006, permitting the respondents to take inspection of the documents sought for and also observed that they will be entitled to take xerox copies at their own cost of the said documents such as register of Board Meetings; attendance register; as well as copies of the A.D. cards as sought for in the application.

3. The challenge is based mainly on the ground that no such Order could have been passed unless the respondents were able to show that the said documents are required for the purpose of decision of the Company Petition or is relevant. Further it is contended that as the respondents ceased to be Directors of the Company, they are not entitled for such an inspection and copies of the documents and, therefore, the said Order deserves to be quashed and set aside.

4. On the other hand, it is the contention of the learned counsel appearing for the respondents that the Company Judge has restricted the inspection of documents for the period the respondents were the Directors of the Company and to take copies of the same which in no manner causes any prejudice to the appellants. Apart from this, it is also contended that an appeal against an interlocutory order, is not maintainable.

5. In reply, the learned counsel appearing for the appellants submitted that the appeal having been admitted by this Court, this preliminary issue of maintainability of the appeal does not survive and reiterates the stand that unless the relevancy of the documents of which copies are sought is made out, the respondents are not entitled for the same.

6. We have examined the Order which is questioned in this appeal and we find that the learned Company Judge has not committed any error or illegality in directing the appellants to furnish inspection of the documents/relevant records to the respondents as well as to obtain xerox copies of the same at their cost.

7. In our view, for the period the respondents have been permitted to take inspection of the record and proceedings of the Company and other documents, there is no controversy over the fact that during the said period they were also Directors of the Company and were privy to the affairs of the Company and therefore they cannot be denied from taking such inspection of the documents/relevant records and also obtain copies of the same. The question of relevancy does not occur in such a case and the petition filed by the respondents is for winding up in which they have raised various issues. Therefore, we do not find that there is any merit in the appeal.

8. Appeal is dismissed with no order as to costs.

9. The learned counsel for the appellants submits that as this Court has dismissed the appeal, the appellants would make available the records/documents relating to the affairs of the Company as ordered by the Company Judge within two weeks from the date of this Order.

10. In view of this statement, the learned counsel for the respondents submits that the respondents would not press the Contempt Application filed before the Company Judge.

J. N. PATEL, J.

P. V. KAKADE, J.

sl.